

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CLAUDIA RIVAS, as Parent and Natural Guardian of
S.C., and CLAUDIA RIVAS, Individually,

Plaintiffs, **JUDGMENT**

-against-

22-cv-10007 (LJL)

DAVID C. BANKS, in his official capacity as
Chancellor of the New York City Department of
Education, and NEW YORK CITY
DEPARTMENT EDUCATION,

Defendants.

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WHEREAS Plaintiff commenced this action on November 23, 2022 under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. 1400 et seq., seeking a reversal of the State Review Officer’s (“SRO”) decision that the Department of Education (“DOE”) offered S.C. a FAPE for the 2021-2022 school year. Plaintiff sought relief declaring that (1) the DOE failed to provide S.C. with a FAPE for the 2021-2022 school year, (2) that iBrain was an appropriate unilateral placement for S.C., and (3) that the equities favor the Parent.

WHEREAS on April 17, 2023, the Plaintiff filed a Motion for Summary Judgment (ECF No. 15); on May 8, 2023, Defendants filed a Cross-Motion for Summary Judgment (ECF No. 20); on May 31, 2023, Plaintiff filed Opposition to Defendants’ Cross-Motion (ECF No. 24); and on June 13, 2023 Defendants filed a Reply. (ECF No. 27).

WHEREAS on November 27, 2023, the Court issued an Opinion and Order (ECF No. 28) which found that (1) the DOE had provided a FAPE to S.C. during the 2021-2022 school year

(“SY”); and (2) the Court lacked support from the administrative record to issue a holding on S.C.’s reimbursement claim for 1:1 nursing services.

Accordingly, **IT IS HEREBY ORDERED, ADJUDGED, and DECREED** that, for the reasons stated in the Court’s Opinion and Order dated November 27, 2023, Plaintiff’s motion for summary judgment is hereby denied. Defendants’ cross-motion for summary judgment is hereby granted in all aspects except denied as to the DOE’s financial obligations for S.C.’s 1:1 nursing services under pendency.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that, pending a resolution of any appeal of the Court’s aforementioned Opinion and Order, the case be remanded to address the limited question whether the DOE must pay for S.C.’s 1:1 nursing services during the 2021-2022 SY pursuant to the August 24, 2021, Pendency Order. The case shall be remanded for the Impartial Hearing Officer (“IHO”) to clarify whether S.C.’s 1:1 nursing services are included in the Pendency Order’s mandate directing DOE to pay for related services, or, in the alternative, whether the DOE was not intended to pay for S.C.’s 1:1 nursing services , as the Pendency Order did not enumerate the related services that the DOE must fund.

The Clerk of the Court is directed to enter Judgment as set forth above and close this case consistent herewith.

Dated: New York, New York
February 14, 2024



LEWIS J. LIMAN
United States District Judge